

Appeal # EPA-HQ-2017-009953

Exemption 6: Personal privacy information.

Assignment History

Event	Timestamp	Performed By	Assigned Agency	Assigned User
Create	07/30/2017 10:42 PM	James Chelmowski	EPA/HQ/OGC	
Save	08/01/2017 01:46 PM	Shirley Blair		Lynn E. Kelly
Save	08/10/2017 11:00 AM	Joan Kaminer		Joan Kaminer

Appeal Details

Tracking Number : EPA-HQ-2017-009953
Requester : Mr. James Chelmowski
Organization : N/A
Requester Has Account : Yes
Created on behalf of : N/A
Email Address : [REDACTED]
Phone Number : N/A
Fax Number : N/A
Address : [REDACTED]
[REDACTED]
City : [REDACTED]
State/Province : [REDACTED]
Zip Code/Postal Code : [REDACTED]

Submitted Date : 07/30/2017
Received Date : 07/30/2017
Last Assigned Date : 08/10/2017
Appeal Track : Simple
Due Date : 08/28/2017
Assigned To : Joan Kaminer (OGC)
Last Assigned By : Joan Kaminer (OGC)

Case Details

Type of Case : FOIA
Fiscal Year : 2017
Total Days Pending : 65
Business Date of Receipt : 07/31/2017
Clock Initially Started On : 07/31/2017

Case Responsive Records

No records have been uploaded.

Appeal # EPA-HQ-2017-009953

Appeal Handling

Requester Info Available to the Public :

Appeal Track :

Fee Category : N/A

Based on Fee Waiver : ☐

Based on Expedited ☐

Processing :

Appeal Received : Yes

Received Date : 07/30/2017

Acknowledgement Sent Date:

5 Day Notifications: ☐

Litigation :

Basis for Appeal

Short Description :

See Attached file for complete Appeal and exhibits

II. Arguments

Including but not limited the following arguments of this FOIA Request or in any judicial review:

- 1) Fees are willfully excessive, bad faith and consider a denial of responsive records. EPA is required by US Government Transparency under the FOIA 5 U.S.C. § 552, other Presidential memos/orders , Attorney General memos/orders, etc.
- 2) Estimated Fees are not detailed how many search hours and cost for the \$275 search fees and other documents state EPA charges \$28 a hour for FOIA search time?
- 3) EPA produced a similar report on its website <https://www.epa.gov/foia/all-foia-requests-pending-june-30-2017>. To modify a FOIAonline report for a smaller time scope, slightly different filter of records and add a couple more columns it will not take nearly 12 hours of search time based on the EPA \$28 hourly search rate from other documents.
- 4) EPA inflated fees to deny/delay/discourage request release of FOIA responsive records is the not "most efficient and least expensive manner" for FOIA records SEARCH. See Hall v. CIA, No. 04-0814, 2006 WL 197462, at *3 & n.4 (D.D.C. Jan. 25, 2006) (recognizing that it would be improper for agencies to inflate fees to discourage requests)
- 5) EPA must provide detail explanation why it would take nearly 12 hours of EPA search time for the EPA print or export a report using FOIAonline.

Basis Available to the Public :

Has Basis Been Modified? ☒

1927/2000

See Attached file for complete Appeal and exhibits II. Arguments Including but not limited the following arguments of this FOIA Request or in any judicial review: 1) Fees are willfully excessive, bad faith and consider a denial of responsive records. EPA is required by US Government Transparency under the FOIA 5 U.S.C. § 552, other Presidential memos/orders , Attorney General memos/orders, etc. 2) Estimated Fees are not detailed how many search hours and cost for the \$275 search fees and other documents state EPA charges \$28 a hour for FOIA search time? 3) EPA produced a similar report on its website <https://www.epa.gov/foia/all-foia-requests-pending-june-30-2017>. To modify a FOIAonline report for a smaller time scope, slightly different filter of records and add a couple more columns it will not take nearly 12 hours of search time based on the EPA \$28 hourly search rate from other documents. 4) EPA inflated fees to deny/delay/discourage request release of FOIA responsive records is the not "most efficient and least expensive manner" for FOIA records SEARCH. See Hall v. CIA, No. 04-0814, 2006 WL 197462, at *3 & n.4 (D.D.C. Jan. 25, 2006) (recognizing that it would be improper for agencies to inflate fees to discourage requests) 5) EPA must provide detail explanation why it would take nearly 12 hours of EPA search time for the EPA print or export a report using FOIAonline. Searches for responsive records should be done in the "most efficient and least expensive manner." As defined by the Electronic Freedom of Information Act Amendments of 1996, the term "search" means locating records or information either "manually or by automated means". President Obama's FOIA Memorandum, 74 Fed. Reg. at 4683 (directing agencies to automatically disclose information about "what is known and done by . . . Government"). [Not Unlawfully Concealment "what is done by the Government"]

Appeal # EPA-HQ-2017-009953

Attached Supporting Files

Attachments Available to the Public :

Attached File	Type	Size (MB)	Remove
FOIA Appeal EPA-HQ-2017-009507.pdf	PDF	0.61	

Assigned Tasks

No tasks have been assigned.

Assigned Reviewers


No reviewers have been assigned.

Appeal # EPA-HQ-2017-009953



Correspondence to Requester

4 items found, displaying all items.

1

Subject	From	To	Date	Detail	Remove
Final Disposition, Appeal EPA-HQ-2017-009953	Joan Kaminer	(UNSENT)	01/03/2018		

EPA-HQ-2017-009953 has been processed with the following final disposition: Completely reversed/remanded.

Final Disposition, Appeal EPA-HQ-2017-009953	Joan Kaminer	James Chelmowski	12/14/2017		
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Dear Mr. Chelmowski:

Please see the attached appeal determination for the above-referenced appeal. This determination was provided to you previously via email. This notice is that the appeal in FOIAonline was closed out. No change was made to EPA's appeal determination. If you have any questions concerning this determination, please contact Joan Kaminer at kaminer.joan@epa.gov.

Thank you.

EPA-HQ-2017-009953 has been processed with the following final disposition: Completely reversed/remanded.

 [EPA-HQ-2017-009953 Chelmowski Appeal Determination.pdf](#), PDF, 0.65 MB ([remove](#))

Final Disposition, Appeal EPA-HQ-2017-009953	Joan Kaminer	James Chelmowski	10/31/2017		
----------------------------------------------	--------------	------------------	------------	---------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------

Mr. Chelmowski,

As indicated in my email, I am now closing out your request in FOIAonline.

Please contact me at kaminer.joan@epa.gov if you have any questions.

EPA-HQ-2017-009953 has been processed with the following final disposition: Completely reversed/remanded.

 [EPA-HQ-2017-009953 Chelmowski Appeal Determination.pdf](#), PDF, 0.65 MB ([remove](#))

Appeal # EPA-HQ-2017-009953

Correspondence to Requester

FOIA Appeal EPA-HQ-2017-009953 Submitted

System

James Chelmowski

07/30/2017



This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- Appeal Tracking Number: EPA-HQ-2017-009953
- Request Tracking Number: EPA-HQ-2017-009507
- Requester Name: James Chelmowski
- Date Submitted: 07/30/2017
- Appeal Status: Submitted
- Description: See Attached file for complete Appeal and exhibits

II. Arguments

Including but not limited the following arguments of this FOIA Request or in any judicial review:






- 1) Fees are willfully excessive, bad faith and consider a denial of responsive records. EPA is required by US Government Transparency under the FOIA 5 U.S.C. § 552, other Presidential memos/orders , Attorney General memos/orders, etc.
- 2) Estimated Fees are not detailed how many search hours and cost for the \$275 search fees and other documents state EPA charges \$28 a hour for FOIA search time?
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- 5) EPA must provide detail explanation why it would take nearly 12 hours of EPA search time for the EPA print or export a report using FOIAonline.

4 items found, displaying all items.

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Appeal # EPA-HQ-2017-009953

Comments (5)

Date / Time	User Name		Edit	Remove	Detail
01/03/2018 10:51 AM	Joan Kaminer				
The request\'s FOIA Officer, "gottesman.larry@epa.gov", was sent a notification email that this appeal has been given the final disposition, "Completely reversed/remanded -- null".					
12/14/2017 10:25 AM	Joan Kaminer				
The request\'s FOIA Officer, "gottesman.larry@epa.gov", was sent a notification email that this appeal has been given the final disposition, "Completely reversed/remanded -- null".					
10/31/2017 12:44 PM	Joan Kaminer				
The request\'s FOIA Officer, "gottesman.larry@epa.gov", was sent a notification email that this appeal has been given the final disposition, "Completely reversed/remanded -- null".					
08/10/2017 11:00 AM	Joan Kaminer				
The request\'s FOIA Officer, "gottesman.larry@epa.gov", was sent a notification email that this appeal has been assigned to kaminer.joan@epa.gov.					
08/01/2017 01:46 PM	Shirley Blair				
The request\'s FOIA Officer, "gottesman.larry@epa.gov", was sent a notification email that this appeal has been assigned to Kelly.Lynn@epa.gov.					

Admin Cost

No entries have been added.